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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,009	07/14/2003	Claudiu D. Pruteanu	20020320.ORI	6036
23595	7590	09/23/2005	EXAMINER	
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/619,009	PRUTEANU ET AL.	
	Examiner	Art Unit	
	Gregory W. Adams	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 6, 8-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Colin (US 4,406,573).

With respect to claim 1-3, referring to FIGS. 1-13 Colin '573 discloses a rear-loading, rear discharging refuse truck body 2, 4 comprising a storage receptacle 2, tailgate assembly 4 carrying a loading hopper 7, 22, tailgate packing system 4, 5, 7, a truck body 2, 4 further comprising a full height ejection panel 3, 11, loading hopper 7, 22 mounted to rotate vertically on a truck body.

With respect to claim 6, referring to FIGS. 1-13 Colin '573 discloses a loading hopper 7, 22 which provides a sealing to a truck body. Col. 3, Ins. 1-10. It is noted that Colin discloses sealing to prevent material from anywhere but into a truck body.

With respect to claim 9, referring to FIGS. 1-13 Colin '573 discloses a rear-loading, rear discharging refuse vehicle 2, 4 comprising a chassis, refuse collection body 2, 22, including a storage receptacle 2, hinged tailgate 4 connected to a storage receptacle 2, and a packing system 3, 11 for receiving refuse and charging refuse into a storage receptacle 2.

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With respect to claim 10, referring to FIGS. 1-13 Colin '573 discloses a refuse vehicle 2, 4 further comprising a full height ejection panel 3, 11 in a refuse collection body 2, 4.

With respect to claim 11, referring to FIGS. 1-13 Colin '573 discloses a loading hopper 7, 22 mounted to rotate 19 vertically.

With respect to claim 14, referring to FIGS. 1-13 Colin '573 discloses a loading hopper 7; 22 which provides sealing to a refuse collection body 2, 7.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4, 5, 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colin (US 4,406,573) as applied to claim 1-3, 9 above, and further in view of Sjostedt (US 5,678,715).

With respect to claims 4, 7 and 13, Colin does not disclose a stackable container with lifting lugs. Referring to FIGS. 1-46 Sjostedt '715 discloses a truck body 10 (e.g. refuse vehicle) which assumes a shape of a stackable container (col. 1, Ins. 38-45), and further comprising lifting lugs 610, 674. Sjostedt '715 teaches that stackable truck body with lifting lugs fully utilizes ground or floor space when in storage, the stacking and lifting lugs capable of supporting loads created during stacking. Col. 1, Ins. 30-50. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify the truck body of Colin to assume a shape of a stackable container with lifting lugs, as per the teachings of Sjostedt, to utilize ground or floor space when in storage, the stacking and lifting lugs capable of supporting loads created during stacking.

With respect to claim 5, referring to FIGS. 1-13 Colin '573 discloses a loading hopper 7, 22 which provides sealing to a truck body. Col. 3, Ins. 1-10.

Claims 8, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colin (US 4,406,573) in view of Oelberg (US 4,164,293).

With respect to claim 8, referring to FIGS. 1-13 Colin '573 discloses a truck body 2, 4 further comprising hydraulic cylinders 5, 16, 18.

With respect to claims 15-16, Colin does not disclose a hopper operating system. Oelberg discloses a hopper operating system comprising hydraulic cylinders (col. 3, Ins. 20-60) such that a hopper can be pivoted into a storage receptacle for discharge of its contents. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Colin to include a hopper operating system, as per the teachings of Oelberg, such that a hopper can be discharged.

Claims 12 & 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colin (US 4,406,573) in view of Oelberg (US 4,164,293).

With respect to claim 12, referring to FIGS. 1-13 Colin '573 discloses a refuse vehicle 2, 4 further comprising hydraulic cylinders 5, 16, 18

With respect to claim 17, Colin does not disclose a hopper operating system. Oelberg discloses a hopper operating system comprising hydraulic cylinders (col. 3, Ins. 20-60) such that a hopper can be pivoted into a storage receptacle for discharge of its contents. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Colin to include a hopper operating system, as per the teachings of Oelberg, such that a hopper can be discharged.

Claims 18 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colin (US 4,406,573) in view of Sjostedt (US 5,678,715) and Oelberg (US 4,164,293). Colin does not disclose a hopper operating system. Oelberg discloses a hopper operating system comprising hydraulic cylinders (col. 3, Ins. 20-60) such that a hopper can be pivoted into a storage receptacle for discharge of its contents. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Colin to include a hopper operating system, as per the teachings of Oelberg, such that a hopper can be discharged.

Response to Arguments

Applicant's arguments filed June 10, 2005 with respect to claims 1-14 have been fully considered but they are not persuasive. New claims 15-19 are treated above.

With respect to claims 1 & 9, applicant argues that Colin's loading hopper 22 does not have independent movement relative to a tailgate. In light of the language of claim 1 of the instant application which recites a loading hopper which is carried by a tailgate structure Colin discloses a loading hopper 22 which is pivoted to discard its

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contents into a tailgate. With respect to claim 1, lines 6-8, its not clear from applicants claim language that a tailgate assembly includes or comprises a loading hopper. For example, it would be clearer as a tailgate assembly comprising a upward pivoting tailgate, wherein an upward pivoting tailgate further comprises a pivoting loading hopper, and wherein a loading hopper pivots into a tailgate between an externally protruding deployed position for collection and a stowed position within a tailgate.

With respect to claims 4-5, 7 & 13, applicant argues that a combination of Colin in view of Sjostedt is moot because Colin does not disclose relative motion between a tailgate and a charging hopper. As noted above in 102(b) and 103(a) sections, Colin disclose rotating a loading hopper 22 into a tailgate assembly 4, 7 such that trash can be compacted into a storage receptacle. Thus, this argument is without merit.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA


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